

REMARKS

The present amendment is responsive to the Office Action dated March 8, 2007. Claim 19 has been amended. Claims 1-18, 20 and 24-34 have been cancelled. New claims 35-41 have been added. No new matter has been added by the amendment or new claims, support for which may be found, by way of example only, in specification paragraphs 0135-0145 and in FIGS. 25-26. The rejection will be addressed in view of the claims as currently presented. Applicant reserves the right to file a divisional application on the subject matter of the cancelled claims.

As an initial matter, applicant would like to thank the Examiner for the telephone interview conducted with the undersigned on June 4, 2007 regarding this case. In view of the telephone interview, independent claim 19 has been amended to clarify the pre-stressing of the collar region of the elastomeric tension element. Specifically, claim 19 has been amended to recite:

A method, comprising:

providing an elastomeric tension element operable to elongate from a first length to a second length during use, the tension element having a first cross-sectional size associated with the first length and a second cross-sectional size associated with the second length, the second length being longer than the first length and the second cross-sectional size being less than the first cross-sectional size, the elastomeric tension element having a collar region at a first point therealong;

pre-stressing the collar region of the elastomeric tension element so that the collar region has a third cross-sectional size less than the second cross-sectional size;

providing a collar having receptacle therein to receive the collar region of the elastomeric tension element, the receptacle including a fourth cross-

sectional size less than the second cross-sectional size of the elastomeric tension element; and

fixedly attaching the collar receptacle to the collar region.

Claims 19-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,861,022 ("Boatcallie"). Applicant respectfully traverses the rejection.

Boatcallie is directed to a "portable forearm exerciser" that includes a pair of "resilient means" or rubber bands that are coupled to left hand and right hand levers, respectively, as shown in figures 1-3. In particular:

A short and general description of the present invention starts with the fact that it consists basically of a pair of levers pivotally connected to one another adjacent one pair of ends, somewhat in the manner of a pair of scissors, shears or tongs. Probably the best comparison is with a pair of pruning shears, which typically have a fairly short blade portion on one side of the pivot and a long handle portion on the other side.

(Col.1, 1.65 to col.2, 1.4)

While *Boatcallie* mentions pre-tensioning the rubber bands when the forearm exerciser is in the open position of FIG. 1, this is quite different from pre-stressing the collar region of an elastomeric element in the manner claimed. Specifically, *Boatcallie* states:

At the distal end of the exerciser of the invention, a pair of resilient means are provided to serve as a force to be overcome as the scissors-like exerciser is operated. Each resilient means is a number of heavy elastic bands in the preferred embodiment to be described, although of course other means such as tension springs may be substituted. Each resilient means has its two ends secured to both of the levers, one point of anchorage being on the tip of, say the righthand lever while its other end is fastened to the lefthand lever, but at an attachment point on the proximal side of the pivot pin. These resilient means

are mounted to their anchors and pre-tensioned while the exerciser is in open attitude. i.e., with the proximal ends spread apart from one another to the maximum extent. This biases the exerciser to the open position, and force must be applied to stretch the resilient means and force the proximal ends of the levers together. The user provides such force as she first mounts the exerciser between her forearms, each forearm being received on the outside of a lever in the cup there provided, and then moves her forearms toward one another, finally meeting at the vertical midplane of her body. The horizontally held exerciser is also symmetric in such plane, and its handle ends meet in this closed position of the device.

(Col.2, 11.28-52, emphasis added.)

Boatcallie shows the "pre-tensioned" position in figure 1. Figure 2 illustrates what happens after the user provides the force to stretch the resilient means as described above. The two ends of the pair of resilient means shown in these figures are coupled to anchorage points 20 and 26 or 22 and 24, respectively. However, the pre-tensioning of *Boatcallie* is not what is claimed.

According to amended claim 19, the collar region of the elastomeric tension element is pre-stressed to have a cross-sectional size less than the cross-sectional size of the tension element at an elongated length. A collar is provided with a receptacle that has a cross-sectional size less than the cross-sectional size of the tension element at the elongated length. Upon pre-stressing, the collar's receptacle is attached to the collar region.

Applicant submits that *Boatcallie* neither discloses nor suggests the method of independent claim 19. Thus, for at least this reason, applicant respectfully requests that the rejection in view of *Boatcallie* be withdrawn.

Dependent claims 21-23 depend from independent claim 19 and contain all the limitations thereof. For at least the

reason presented above, applicant submits that the subject dependent claims are in condition for allowance.

New claims 35-41 depend, either directly or indirectly, from independent claim 19 and contain all the limitations thereof. Thus, for at least this reason, applicant respectfully submits that these claims are also in condition for allowance.

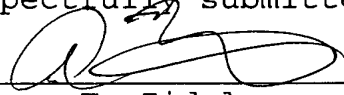
As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 8, 2007

Respectfully submitted,

By 
Andrew T. Zidel
Registration No.: 45,256
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant